



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
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HELENA, MONTANA 59626

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Ref: 8MO

Gayla Benefield, Chair
Libby Area Technical Assistance Group
245 Cedar Meadow Road
Libby, MT 59923

Dear Ms. Benefield,

EPA is currently considering your TAG application, but has some serious questions and concerns regarding your application and the function of your Group. Our concerns are based upon your application and feedback from the EPA Libby Site Team and the TAG Project Officer.

The purpose of the TAG program is to assist groups in obtaining technical assistance in interpreting site-related documents and, in turn, contributing to the public's understanding of overall site conditions and decisions. To obtain this assistance, groups are empowered to hire a qualified technical advisor. The TAG Board of Directors should provide direction and oversight of the contractors' activities.

The past function of the Libby TAG Group, as well as your application, suggest that a significant portion of your time and funds are spent on activities that are not in line with this basic purpose and scope. Additionally, EPA must question to what degree the general public has benefited, or will benefit, from your activities. At this point, the Libby TAG Group has spent nearly the entire amount of the first grant award in just over one year (\$50,000 – usually intended for a three year period), with few deliverables and apparently little public outreach. Here are some specific concerns:

Scope and Purpose of the TAG

1. Page 4 of your application states, "If necessary employee [sic] the profession [sic] services of a management consultant firm that might address the overall expenditure of funds to ensure funds are going to direct cleanup as opposed to unnecessary overhead or design." Such an activity is prohibited under the terms of the grant. TAG Groups are not oversight or auditing agencies. Again, the basic purpose of the TAG program is to interpret and communicate site-related technical information to the community. If residents or others have concerns with the management of the Site by EPA, or with EPA expenditures, they can discuss those concerns directly with EPA outside of the TAG process and without using TAG funds. Similarly, residents or others can file complaints with the EPA Office of the Inspector General if they feel there are issues of mismanagement or misappropriation of funds.



2. The EPA Libby Team reports that recent TAG meetings have focused on non-technical issues such as wage rates, unique property owner complaints, personal accusations, and other non-technical issues. While other issues may be important, and EPA tries to be flexible as TAG groups change and mature, with this letter EPA again reminds you of the basic purpose and limitations of the TAG program. The issues at Libby are complex and sometimes difficult to understand and communicate; the community deserves a TAG group that is dedicated to the core purpose of interpreting and communicating technical data and capable of performing that service.
3. How has the TAG attempted to engage the community at large? By what method did the Board present information to the community and gather the community's thoughts/concerns on EPA's December 2003 Technical Memorandum?
4. Future public communications should be limited to information related to the purpose of the TAG.

Role of Technical Advisor and Suitable Activities

We question the role of your current technical advisor and your stated need to hire additional technical consultants. Technical advisors should be able to provide the TAG, and hence the community, with unbiased, professional interpretations of site-related technical data and information. It appears your technical advisor has taken a different role which may be inappropriate. Specifically:

1. Page 1 of your application states "...the following Draft Operating Plan was presented to the board by the Technical Advisor." This is inappropriate. Again, the purpose of the technical advisor is to provide technical interpretations and communications assistance. The TAG Board, with input from the community, should develop an operating plan, and assign tasks to the technical advisor accordingly.
2. It appears that the current technical advisor drafted the current grant application. The application should come from the TAG Board, not the Technical Advisor.
3. Page 4 of your application states "If necessary, engage a professional outside scientific consultant or list of scientific consultants that will assist...understanding of EPA risk assessment." It also states the intention to hire an additional contractor to handle public communications tasks. EPA acknowledges the complexity of the issues in Libby, and the need for an independent scientific review, the latter being the premise for the TAG program. EPA questions, then, what services your current technical advisor is providing. For instance, a basic understanding of, and experience with, EPA risk assessment and public risk communications would seem a reasonable prerequisite for a technical advisor, but your application shows an intention to seek other consultants in this regard. Overall, it appears the current technical advisor is functioning as a Board director, rather than a technical consultant. Such services are prohibited by the terms of the Grant.

4. EPA questions whether your technical advisor is unbiased. Being a local resident may prevent a technical advisor from offering purely technical interpretations of site-related data despite its advantages in terms of understanding local concerns and familiarity with the Libby project. Objective technical interpretations are critical to the TAG process.
5. A contracted technical advisor does not have unilateral authority to expend funds and should not direct TAG activities. Therefore, if a sub-contract is established through the current technical advisor for communications activities, the TAG Board should retain responsibility for deciding on the tasks the sub-contractor will undertake. Again, we question why a separate technical consultant is necessary.

EPA must ensure Federal grant funds are spent appropriately and effectively. The Agency wants your TAG group to succeed in a task of utmost importance in the Superfund process – namely public participation in decision-making.

We understand there have been many changes in the TAG group/board over the past year and that some of EPA's concerns stem from activities undertaken before the current board was in place. Please provide clarification to our office on these issues as soon as possible so that I may proceed with your grant award this fiscal year. Grant funds will not be disbursed until EPA has received the board's written response. If you have any questions you may call me at 406-457-5010.

Sincerely,



Danette Quick
Grants Specialist

cc: Cheryl Fox, Grant Administrator

~~Wendy Thomi, Community Involvement Coordinator~~

Wendy Thomi, Community Involvement Coordinator
Diana Hammer, TAG Project Officer